

Remarks

Claims 1, 2, 6, 7 and 11- 14 have been amended. Claims 3-5, 8-10 and 15-29 have been canceled.

The Examiner has rejected applicant's claim 12 under 35 USC § 101 as directed to non-statutory subject matter. The Examiner has argued that the recitation of a computer program is considered as "functional descriptive material" and, therefore, non-statutory. This rejection is respectfully traversed.

Applicant's claim 12 is directed to a computer program "capable of carrying out a service presenting method for presenting predetermined service in accordance with an operation by the user." The computer program comprises program codes for executing steps of the method. The claimed computer program is thus not recited merely as a computer listing or as a data structure but as modules for executing the steps of a service presenting method. Accordingly, claim 12 is believed statutory and in compliance with the provisions of 35 USC § 101.

The Examiner has further rejected applicant's claims 1-17 and 19-29 under 35 USC § 102(e) as anticipated by the Johnson patent (US patent No. 6,535,726). Claim 18 has been rejected under 35 USC § 103(a) as unpatentable over the latter patent. With respect to applicant's claims, as amended, these rejections are respectfully traversed.

Applicant's independent claims 1, 6, 11, 12, 13 and 14 have been amended to better define applicant's invention. In particular, amended claim 1 now recites a service presenting apparatus for presenting predetermined service in accordance with an operation by the user, comprising: input means for allowing an user to input access information of a portable terminal; access means for effecting access to the portable terminal of the user in accordance with the access information inputted by said input means; inquiring means for directing the user to press a button to provide information to

information to inquire whether or not it is allowed to make the payment for the service via a user's account on which communication of the portable terminal is charged; authentication means for authenticating a response for the information by said inquiring means according to the response; and service providing means in case that said authentication means authenticates the response in order to provide the service. Claims 6, 11, 12, 13 and 14 have been similarly amended.

Such a construction is not taught or suggested by the cited Johnson patent. More particularly, the Johnson patent discloses that the charge of a transaction of a fuel dispenser is paid from an account from which a communication charge of a cellular telephone of a user is paid. In the Johnson patent, the user causes the cellular telephone to communicate with the dispenser and the cellular phone receives site information from the dispenser. The cellular phone then automatically or upon the user pressing send, dials an outbound number of a supporting cellular network which number is included in the site information from the dispenser. The cellular telephone may also require a PIN from the user for additional security. The cellular telephone then sends the site information as well as internally stored information to the cellular network which determines itself or from an outside billing network if the transaction is authorized. If the transaction is authorized, this information is communicated to the fuel dispenser which sends information as to the total cost of the fuel dispensed which is then charged by the cellular network or the outside billing network to the user.

Thus, in the Johnson patent, while a the user may cause the number of the supporting cellular network to be dialed and/or may input a PIN, these operations are in not based on directing the user to press button to provide information as to whether to authorize or allow payment or not and do not provide such authorization. Instead, in the Johnson patent, the transaction or payment is authorized by the supporting cellular network or by an outside billing network.

Accordingly, the patent fails to teach or suggest an "inquiring means directing a user to press a button to provide information to inquire whether or not it is allowed to make the payment for the service via a user's account on which communication of the portable terminal is charged; authentication means for authenticating a response for the information by said inquiring means according to the response; and service providing means in case that said authentication means authenticates the response in order to provide the service." Again, in the Johnson patent, the user presses send for dialing a number or inputs a PIN for security, but the user is not directed to press a button to provide information to an inquiry as to whether to allow payment or not.


Applicant's amended independent claims 1, 6, 11, 12, 13 and 14, and their, respective dependent claims, all of which recite such features, thus patentably distinguish over the Johnson patent.

In view of the above, it is submitted that applicant's claims, as amended, patentably distinguish over the cited art of record. Accordingly reconsideration of the claims is respectfully requested.

Dated: June 20, 2006

COWAN, LIEBOWITZ & LATMAN, P.C.
1133 Avenue of the Americas
New York, NY 10036
(212) 790-9273

Respectfully submitted,


John J. Torrente
Reg. No. 26359
Attorney for Applicant